

Our Ref: COR-1150

Cornwall Council

FORM 1

FORM OF APPLICATION FOR MODIFICATION ORDER

Wildlife and Countryside Act 1981

Definitive Map and Statement for the former District / Borough* of Penwith / Kerrier / Carrick /
Restormel / North Cornwall / Caradon*

To: Cornwall Council

Of : New County Hall, Treyew Road, Truro TR1 3AY

I/We

Of :

hereby apply for an Order under section 53(2) of the Wildlife and Countryside Act 1981
modifying the definitive map and statement for the area by:

(a) Deleting the footpath / bridleway / restricted byway / byway open to all traffic

from:Grid Ref

to:Grid Ref

(b) **Adding**

from:

to:

(c) **Upgrading to a Restricted Byway the Footpath**

from: County Road U6032 Gridref: SW66153329

to: County Road U6032 Gridref: SW66333435

(d) Varying /adding to the particulars relating to the footpath/bridleway/restricted
byway/byway open to all traffic.

from:Grid Ref

to:Grd Ref

by providing that historical evidence has been discovered to establish a public right of way.

I / We attach copies of the following documentary evidence (including statement of witnesses) in support of this application:

DOCUMENTARY EVIDENCE IS ATTACHED

.....

.....

.....

Signed: ...

.....Dated: 2 February 2021.....

APPENDIX II - Evidence Sources

OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1888 to 1913

National Library of Scotland/Vision of Britain on-line maps.

Ordnance Survey Maps - 25 inch England and Wales, 1841-1952

National Library of Scotland or old-maps.co.uk on-line maps.

OS Six Inch Ordnance Survey Maps - Six-inch England and Wales, 1888 to 1913

National Library of Scotland on-line maps.

Inland Revenue Valuation Records - Finance (1908-10) Act 1910

Photographed at National Archive - British Horse Society.

Tithe Records

Cornwall Record Office, CD copies.

Parish Area Books

National Archive ==scanned Google/British Horse Society.

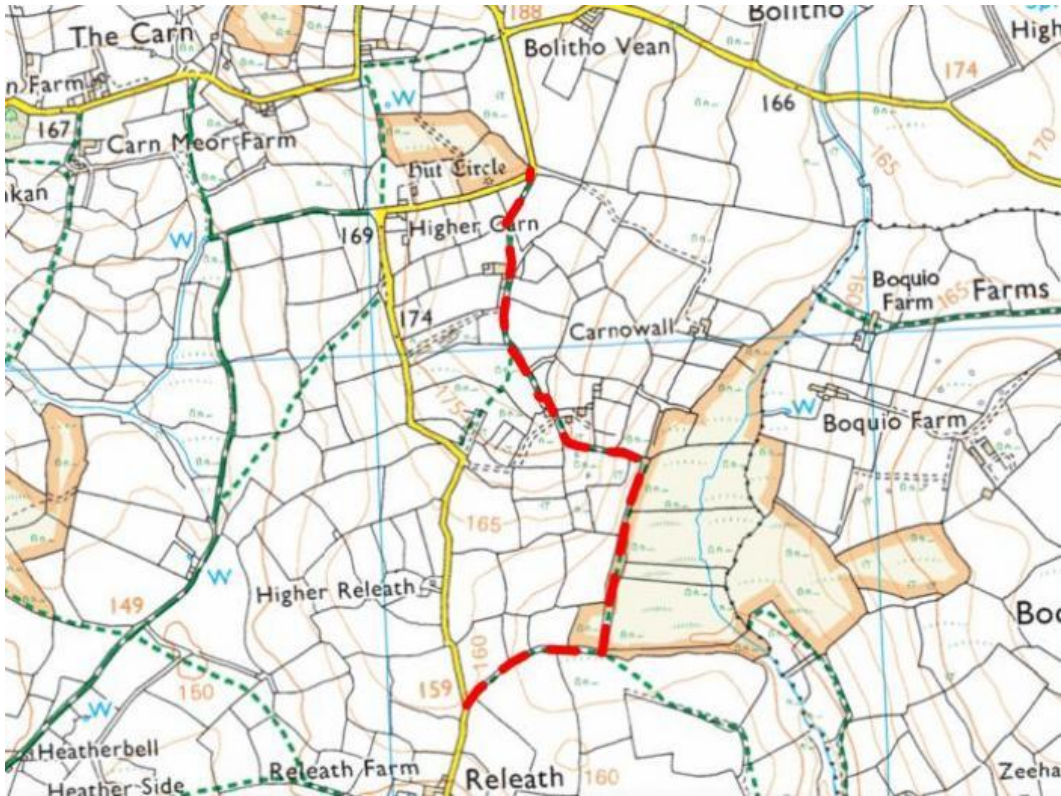
Our Path Reference: COR-1150

Parish: Crowan **Grid Reference:** SW663338

Application Details

Map of Path:

Route applied for is shown in RED DASHES



Description of Path:

Path starts at County Road U6032 SW66153329 and ends at County Road U6032 SW66333435

Old hedged lane. Some southern sections are across rough land.

Current Recorded Status:

Path is recorded as Footpath on the Definitive Map.

Path is not recorded on the List of Streets.

Status being applied for: Restricted Byway

Notes:

It is not known whether the path is obstructed in any way.

Path is walked.

Currently recorded as Footpaths 106 and 109

Our Path Reference: COR-1150 Grid Reference: SW663338

Path starts at County Road U6032 SW66153329 and ends at County Road U6032 SW66333435

Documentary Evidence

Evidence from Maps:

Old maps provide very good evidence of the history of roads and other paths. Whilst such maps themselves do not record any user rights, any routes must have been significant enough to be mapped and the maps were intended for use by the public. If old maps clearly show the way marked as a road or old lane it is very good supportive evidence of the way being a road.

OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1809 to 1913

First series 1813 Path is clearly shown as a road.

Sheet 352 - Publication date: 1896 route is shown as a minor road.

Ordnance Survey Maps - 25 inch England and Wales, 1841-1952

Cornwall LXX.6 and 10 1878 Path is clearly shown as a road or lane with no gates, plot nos. 3215 and 3308

OS Six Inch Ordnance Survey Maps - Six-inch England and Wales, 1888 to 1913

Cornwall LXX.NW and SW Surveyed: 1877 Path is clearly shown as a road.

Primary Evidence:

Inland Revenue Valuation Records - Finance (1908-10) Act 1910

These maps on their own can provide very good evidence of a RoW. If a track is uncoloured on the map and lying between hereditaments, this is very good evidence that it was excluded as being a public road. Footpaths and bridleways are usually included in the hereditament (plot area) but there is a deduction for them in the valuation.

128/5/836 and 840 Shows path clearly excluded from all adjoining hereditaments which is good evidence that the path was considered a public road.

Tithe Records

The tithe maps and apportionments are an important source of information about the history and topography of a parish. They provide details of land ownership and occupation, and the type of cultivation of the land. They were produced in order to assess the tithe payable in cash to the parish church for the support of the church and its clergy. Roads were specifically excluded from tithe payments and thus can provide valuable evidence for the existence of Rights of Way. The tithe apportionment often describes public tracks as "Common, wastes and roads" or sometimes "Roads and rivers", which are all areas which generated no tithes for the church. Often such areas excluded from tithe are shaded in a sienna coloured wash. Tithe records can provide reputable evidence on their own taken in support of other standards of public records.

Crowan Tithe - All of the route is shown as a through road shaded brown with parcel number 4138. Parcel 4138 is listed in apportionments as 'Roads in Releath and Carne Hewell' No tithe - under section 'Roads' which includes all current county roads.

Parish Area Books

Crowan Plot nos. 3215 and 33308 are described as 'Road'

Other Evidence:

Land Ownership

Exclusion of a path from land registrations on either side is very indicative of public rights. However where an adjacent registration includes a path this does not give any indication against public rights. Land registrations sometimes deliberately or inadvertently extend ownership beyond that shown on the original deeds.

Land Registry Polygons show none of the route is registered. Several sections have land either side registered excluding the old lane. This is strongly suggestive of an ancient public highway.

Summary and Statement of Reasons:

The Inland Revenue map shows all of the road excluded from the adjacent hereditaments. This is very good evidence that it was excluded because it was a public road. There is no evidence to suggest that the exclusion should not be interpreted in this way.

The Tithe map shows the path as a plot listed under 'Roads and Wastes'.

The OS 25 inch map showing the path as a Road in two separate plots indicating the significance of the route and these plots are described as 'Road' in the Area Book. The old lane is depicted as having no gates to otherwise hinder or discourage usage by all.

All the old maps, which were intended for public navigation, show the route consistently as a road. This is very strong supportive evidence of the status of the route as a public road. The depiction on the early 1813 first series OS map is significant because footpaths are not shown on this map.

At that time, the primary mode of transport was pack horse, cart or carriage. It is inconceivable that any such available route would not be used by all to get about, and via the shortest route to hand. The old road serves a number of homesteads along its length.

None of the lane is registered much adjacent land is. This is very consistent with being an ancient public highway.

There is no evidence against the premise that this route is a public road.

The combination of the evidence from Old Maps, Inland Revenue map 1910, Tithe and Area Book gives exceptionally strong indication that the path is highway and now should be recorded with Restricted Byway Status.

In order to be able to modify the definitive map and statement, the Surveying Authority needs to have a discovery of evidence which shows, on the balance of probabilities, that highway rights exist. While no single piece of evidence is necessarily conclusive, the applicant believes that taken as a whole the evidence demonstrates highway reputation.

APPENDIX I - Documents and Photos

Start of lane at southern end



lane emerges on to county road at northern end



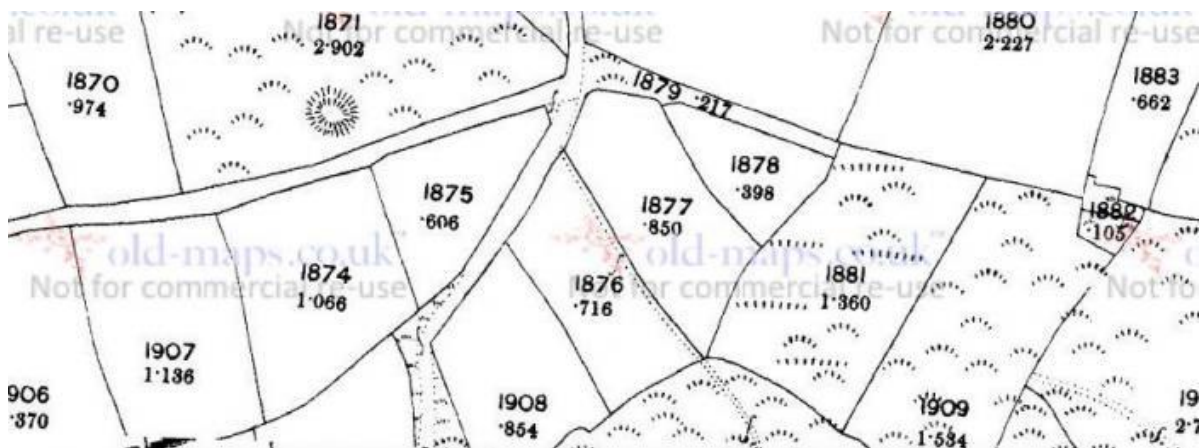
OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1809 to 1913

1st series 1813 - Clearly shown as a through road

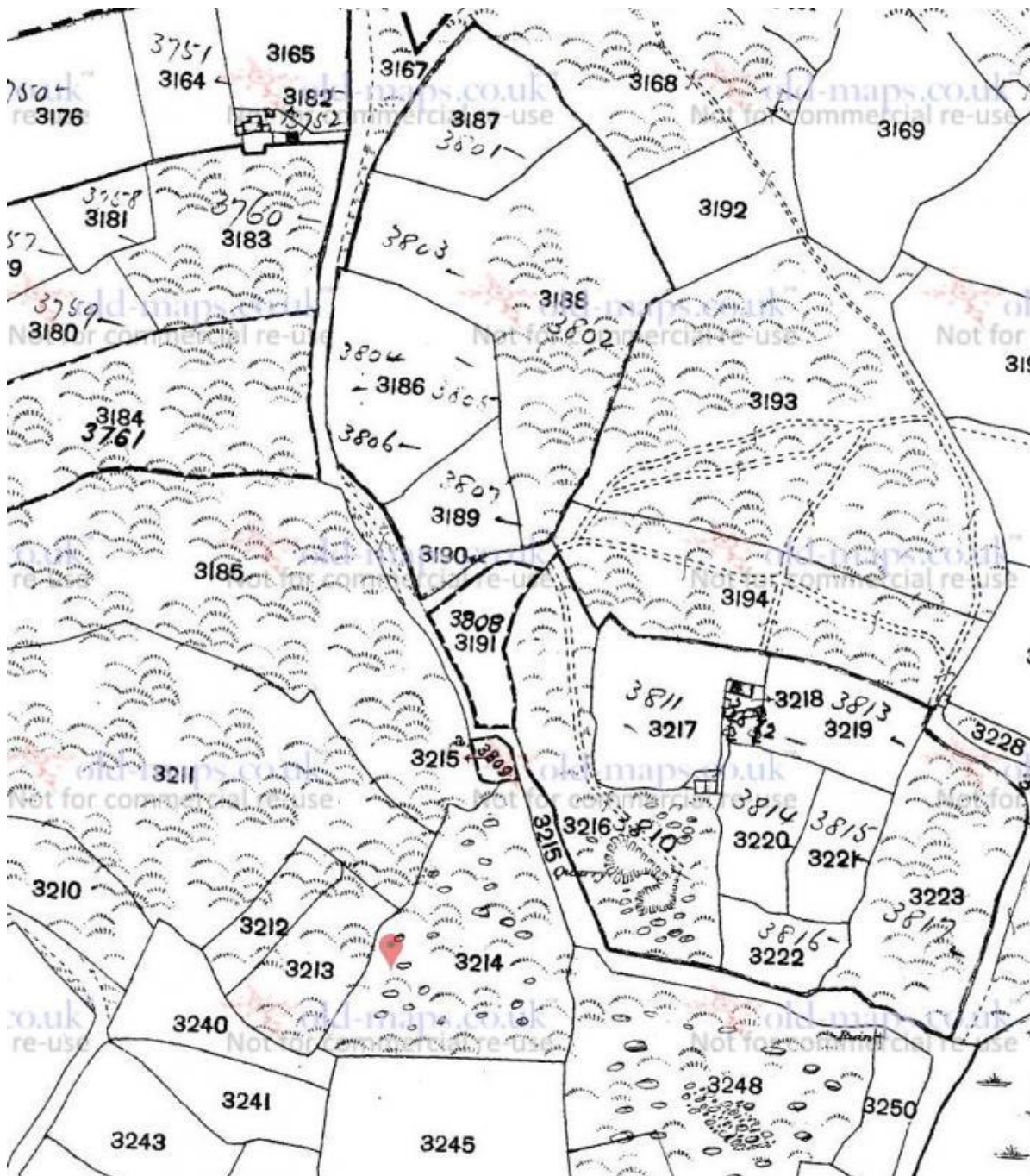


Ordnance Survey Maps - 25 inch England and Wales, 1841-1952

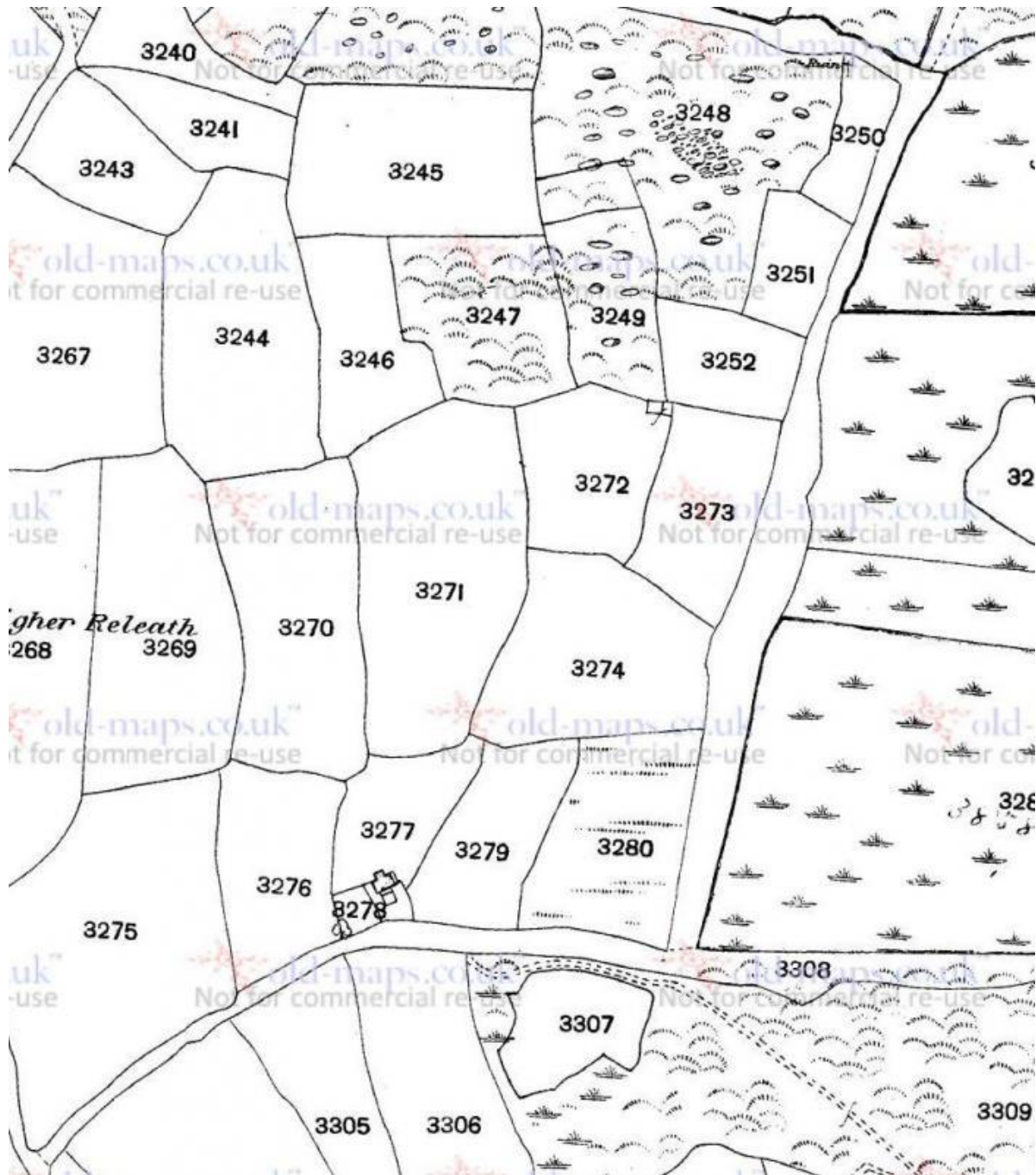
Plot 3215



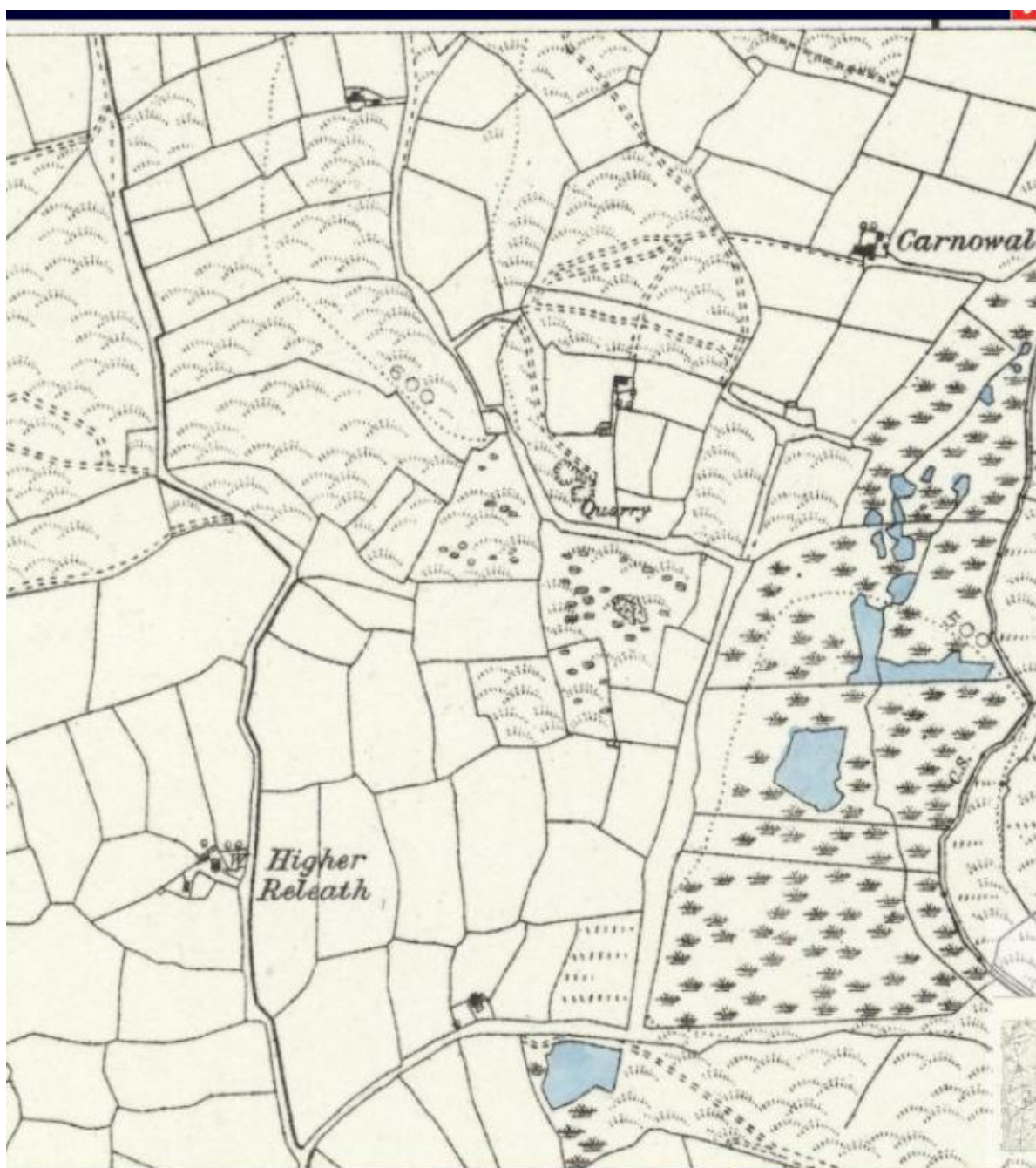
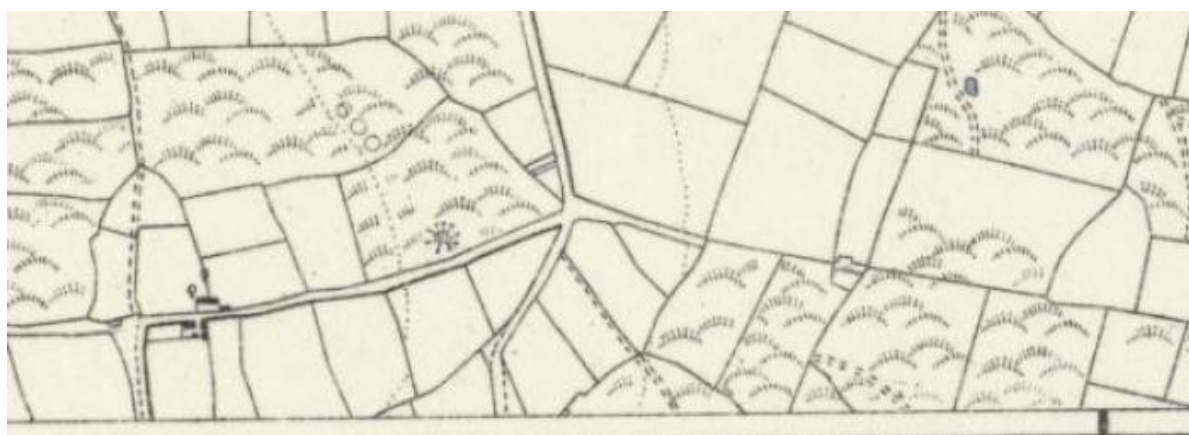
Plot 3215



Plot 3215 and 3308

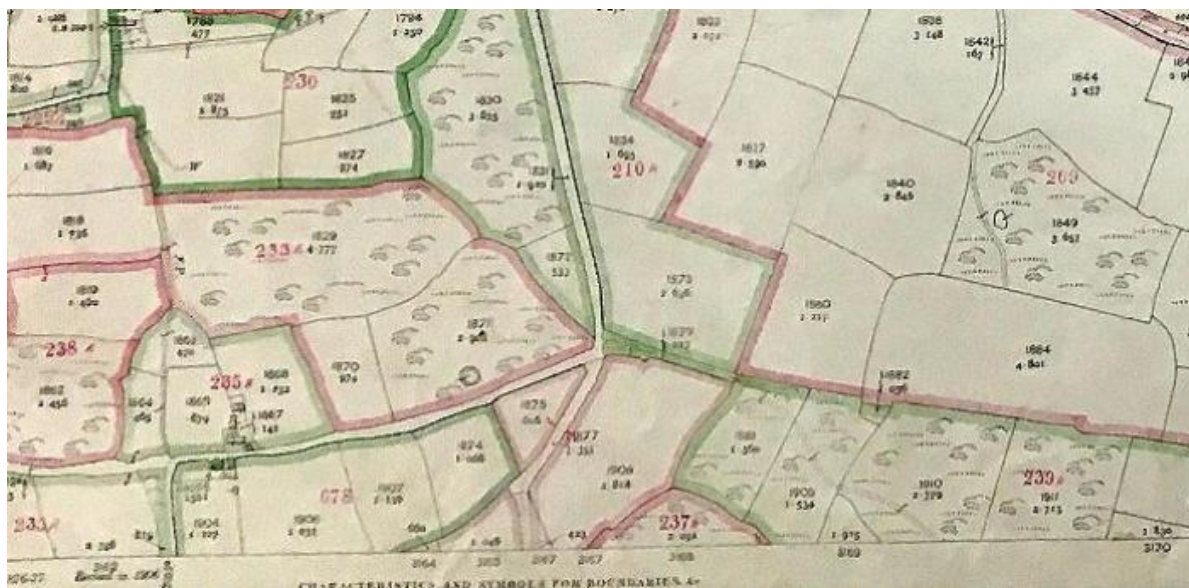


OS Six Inch Ordnance Survey Maps - Six-inch England and Wales, 1888 to 1913



Inland Revenue Valuation Records - Finance (1908-10) Act 1910

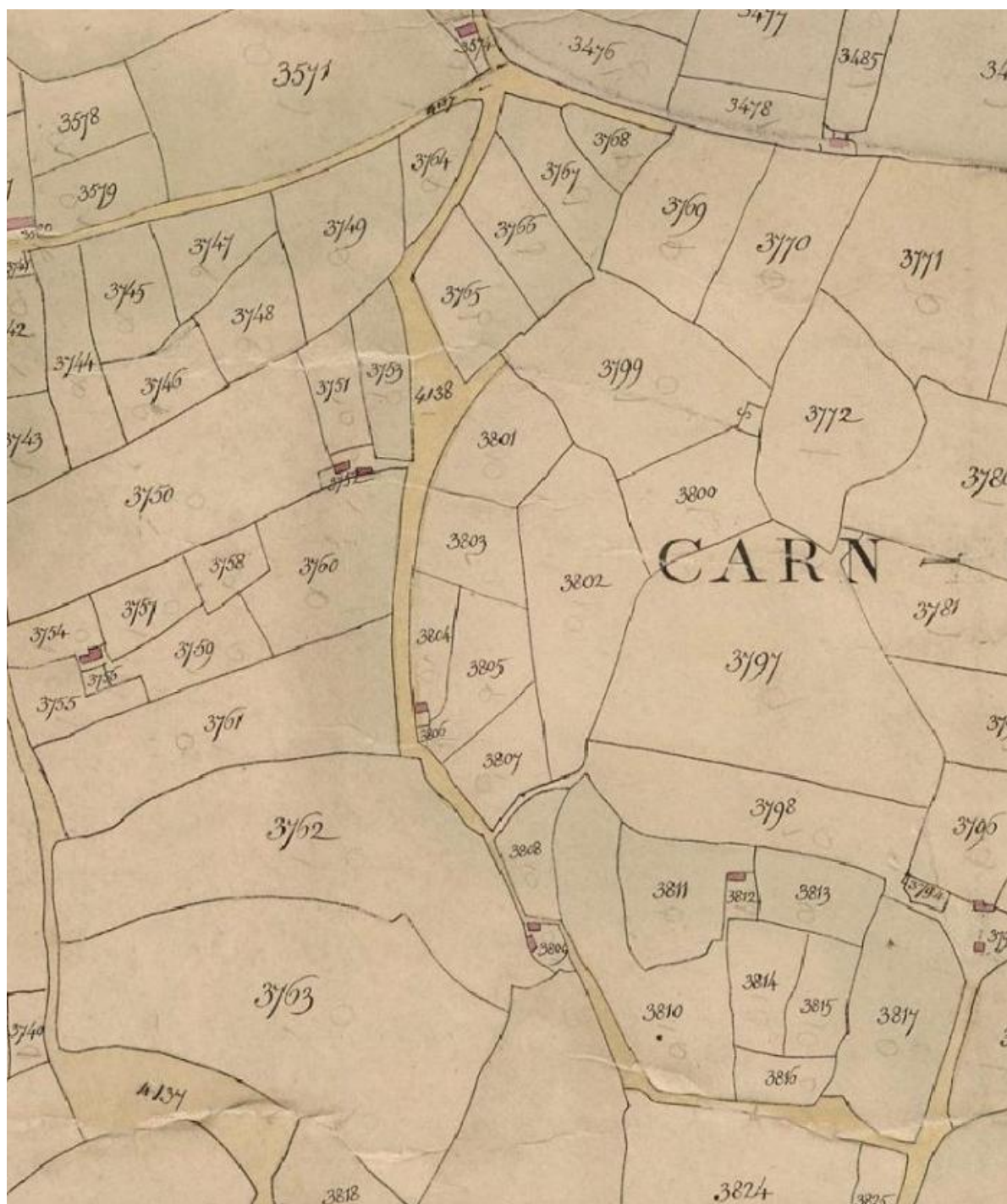
128/5/836 All of route excluded from hereditaments



This is a detailed topographic map of a region in Cornwall. The map features several land parcels outlined in different colors: red, green, orange, and blue. Numerous numerical labels are scattered across the map, likely representing elevation or parcel numbers. The name 'Cornwall' is visible in the upper right corner. The map also shows various geographical features like roads and water bodies.

Tithe Records

Northern Half Parcel 4138



Southern Half Parcel 4138



Parcel 4138 'Roads in Releath and Carne Hewell' No tithe - under 'Roads'

4135	Roads in Dolton	5	2	20
4136	Roads in Dolton and Releath	4	2	
4137	Roads in Releath	11	2	10
4138	Roads in Releath and Carne Hewell	6	1	
4139	Roads in Villanovan	1		32
4140	Roads in Releath	1	1	30
4141	Half of line adjoining Parish of St. Mary		3	32
		1143	2	26

Parish Area Books

Plot 3215 'Road'

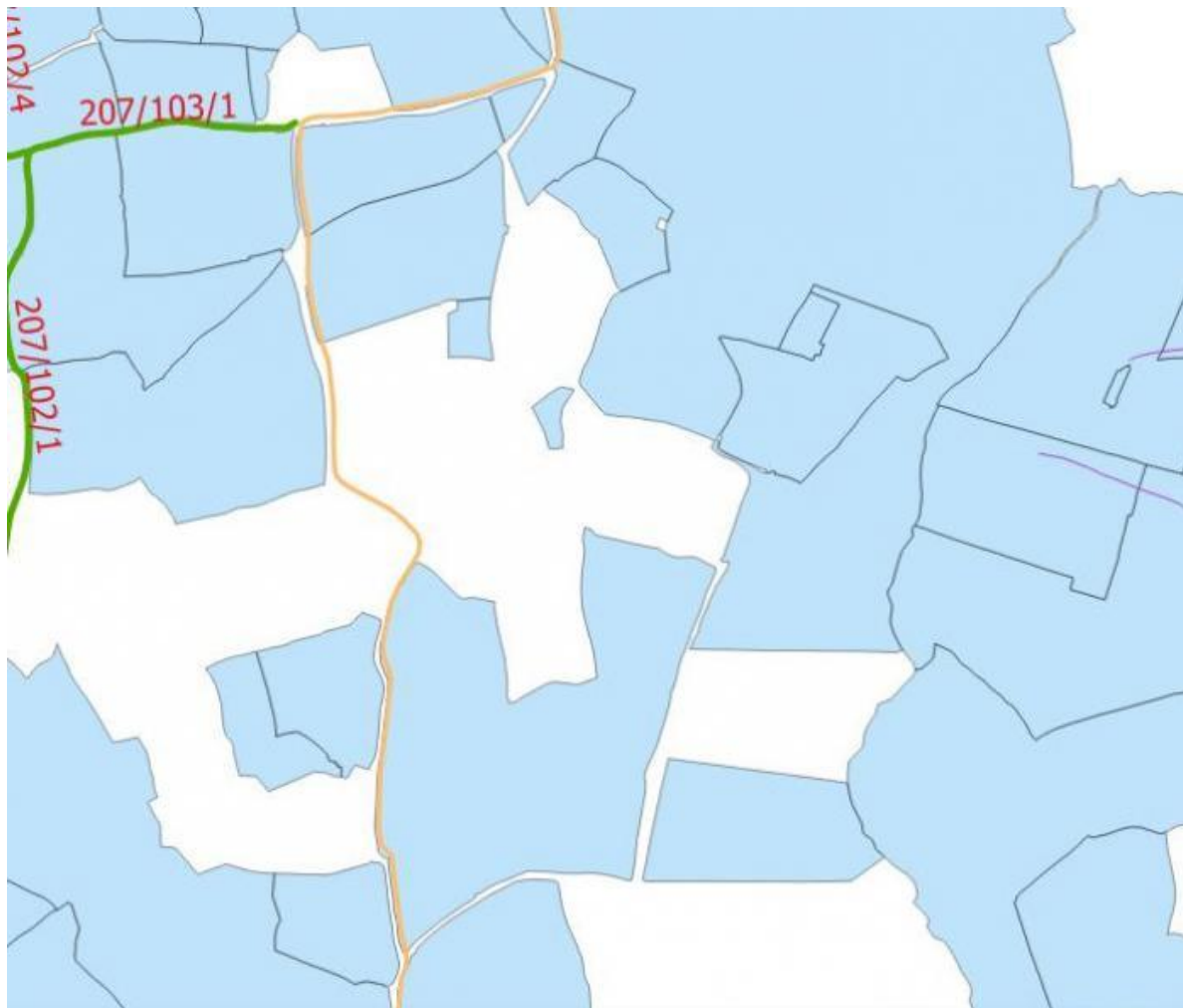
3156	.035	Pasture.	3209	.959	Furze.
3157	.350	Pasture.	3210	4.731	Furze.
3158	.351	Pasture and furze.	3211	.361	Furze.
3159	.250	Houses, garden, &c.	3212	.703	Furze.
3160	.172	Rough pasture.	3213	2.037	Furze, &c.
3161	2.396	Arable.	3214	2.984	Road.
3162	4.488	Road.	3215	.080	Furze.
3163	.819	Furze, &c.	3215a	1.849	Furze, &c.
3163a	.653	Pasture.	3216	.938	Pasture.
3164	1.046	Pasture.	3217	.130	House, yards, &c.
3165	.423	Furze.	3218	.702	Pasture.
3167	.001	Furze, &c.	3219	.569	Pasture.

Plot 3308 'Road etc.'

3251	.472	Pasture, &c.	3302	1.401	Pasture.
3252	.604	Pasture.	3303	1.700	Pasture.
3253	5.844	Marsh.	3304	2.223	Arable.
3254	.897	Water.	3305	2.361	Arable.
3255	1.125	Pasture.	3306	1.034	Pasture.
3256	1.142	Pasture.	3307	1.661	Arable.
3257	1.044	Pasture.	3308	.613	Water.
3258	1.141	Pasture.	3309	2.293	Road, &c.
3259	1.241	Pasture, &c.	3310	10.100	Furze, &c.
3260	1.087	Pasture.	3311	1.270	Pasture.
3261	.412	Houses, yards, &c.	3312	1.081	Arable, &c.
3262	1.442	Pasture.	3313	1.532	Arable.

Land Ownership

Land Registry Polygons (blue) show none of the route is registered. Several sections have land either side registered excluding the old lane.



LR 'Inspire' Map



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